

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

EDWARD MCCARTHY, )  
Plaintiff )  
 )  
V. ) CIVIL NO. 04-10335-RWZ  
 )  
MCLANE COMPANY, INC., and )  
CONSTRUCTION MANAGEMENT )  
TECHNOLOGY, )  
Defendants )

**ANSWER OF THE DEFENDANT,  
CONSTRUCTION MANAGEMENT TECHNOLOGY,  
AND DEMAND FOR JURY TRIAL**

**PARTIES**

1. The Defendant can neither admit nor deny the allegations of Paragraph 1 of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
2. The Defendant can neither admit nor deny the allegations of Paragraph 2 of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
3. The Defendant admits the allegations of Paragraph 3 of the Plaintiff's Complaint.

**COUNT I  
NEGLIGENCE OF THE DEFENDANT, MCLANE**

4. The Defendant can neither admit nor deny the allegations of Paragraph 4 of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
5. The Defendant admits the allegations of Paragraph 5 of Count I of the Plaintiff's Complaint.
6. The Defendant admits the allegations of Paragraph 6 of Count I of the Plaintiff's Complaint.

7. The Defendant can neither admit nor deny the allegations of Paragraph 7 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
8. The Defendant can neither admit nor deny the allegations of Paragraph 8 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
9. The Defendant can neither admit nor deny the allegations of Paragraph 9 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
10. The Defendant can neither admit nor deny the allegations of Paragraph 10 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
11. The Defendant can neither admit nor deny the allegations of Paragraph 11 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
12. The Defendant can neither admit nor deny the allegations of Paragraph 12 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
13. The Defendant can neither admit nor deny the allegations of Paragraph 13 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
14. The Defendant can neither admit nor deny the allegations of Paragraph 14 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
15. The Defendant denies the allegations of Paragraph 15 of Count 1 of the Plaintiff's Complaint.
16. The Defendant denies the allegations of Paragraph 16 of Count 1 of the Plaintiff's Complaint.
17. The Defendant denies the allegations of Paragraph 17 of Count 1 of the Plaintiff's Complaint.
18. The Defendant can neither admit nor deny the allegations of Paragraph 18 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.

19. The Defendant can neither admit nor deny the allegations of Paragraph 19 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
20. The Defendant can neither admit nor deny the allegations of Paragraph 20 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
21. The Defendant can neither admit nor deny the allegations of Paragraph 21 of Count I of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.

**COUNT II**  
**NEGLIGENCE OF THE DEFENDANT, CMT**

22. The Defendant incorporates herein by reference its answers to Paragraphs 1 through 21 of the Plaintiff's Complaint as if set forth word for word.
23. The Defendant can neither admit nor deny the allegations of Paragraph 23 of Count II of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
24. The Defendant admits the allegations of Paragraph 24 of Count II of the Plaintiff's Complaint.
25. The Defendant admits the allegations of Paragraph 25 of Count II of the Plaintiff's Complaint.
26. The Defendant can neither admit nor deny the allegations of Paragraph 26 of Count II of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
27. The Defendant can neither admit nor deny the allegations of Paragraph 27 of Count II of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
28. The Defendant can neither admit nor deny the allegations of Paragraph 28 of Count II of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.

29. The Defendant denies the allegations of Paragraph 29 of Count II of the Plaintiff's Complaint.
30. The Defendant can neither admit nor deny the allegations of Paragraph 30 of Count II of the Plaintiff's Complaint because it is without knowledge or information sufficient to form a belief as to the truth of the said allegations.
31. The Defendant denies the allegations of Paragraph 31 of Count II of the Plaintiff's Complaint.
32. The Defendant denies the allegations of Paragraph 32 of Count II of the Plaintiff's Complaint.
33. The Defendant denies the allegations of Paragraph 33 of Count II of the Plaintiff's Complaint.
34. The Defendant denies the allegations of Paragraph 34 of Count II of the Plaintiff's Complaint.
35. The Defendant denies the allegations of Paragraph 35 of Count II of the Plaintiff's Complaint.
36. The Defendant denies the allegations of Paragraph 36 of Count II of the Plaintiff's Complaint.
37. The allegation contained within Paragraph 37 of Count II of the Plaintiff's Complaint is neither admitted nor denied as it calls for a legal conclusion.
38. The Defendant denies the allegations of Paragraph 38 of Count II of the Plaintiff's Complaint.
39. The Defendant denies the allegations of Paragraph 39 of Count II of the Plaintiff's Complaint.
40. The Defendant denies the allegations of Paragraph 40 of Count II of the Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

First Affirmative Defense

And further answering, the Defendant says that the injuries and damages alleged were caused in whole or in part by negligence of the Plaintiff to a degree greater than any alleged negligence of the Defendant.

Second Affirmative Defense

And further answering, the Defendant says that the injuries and damages alleged were not caused by the act or acts of any person for whose conduct the Defendant was legally responsible.

Third Affirmative Defense

And further answering, the Defendant says that the location of the Plaintiff's alleged fall was not an area within the care, custody or control of the Defendant and the Plaintiff is thereby barred from recovery.

Fourth Affirmative Defense

And further answering, the Defendant says that the Complaint fails to state a claim against the Defendant upon which relief can be granted.

Fifth Affirmative Defense

And further answering, the Defendant denies that it was negligent, careless or grossly negligent in any manner.

Sixth Affirmative Defense

And further answering, the Defendant says that the Plaintiff failed to exercise due care at the time of the accident.

Seventh Affirmative Defense

And further answering, the Defendant denies management, supervision, inspection or testing, maintenance, ownership or control of the premises alleged in the Plaintiff's Complaint.

Wherefore, the Defendant demands that the Plaintiff's Complaint be dismissed and that judgment enter thereon for Defendant, Construction Management Technology, together with costs.

**JURY CLAIM**

In the above named action, the Defendant, Construction Management Technology, claims a trial by jury on all issues.

Construction Management Technology  
By its attorney,



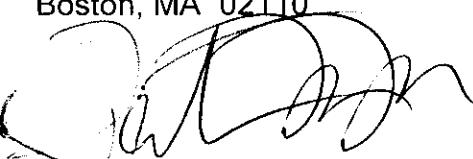
Patrick M. McCormack  
B.B.O. No. 546194  
Law Offices of Jacqueline L. Allen  
262 Washington Street, Suite 601  
Boston, MA 02108  
617-878-4614

**CERTIFICATE OF SERVICE**

I, Patrick M. McCormack, attorney for the Defendant, Construction Management Technology, in the above-entitled action, hereby certify that on the \_\_\_\_ day of March, 2004, I mailed a copy of the within Answer to Plaintiff's Complaint, postage prepaid, to:

George A. Malliaros, Esq.  
1794 Bridge Street, Suite 22B  
Dracut, MA 01826

Wesley S. Chused  
Looney & Grossman LLP  
101 Arch Street  
Boston, MA 02110



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@DISTRICT OF COLUMBIA  
EVIRGINIA

March 12, 2004

United States District Court  
 One Courthouse Way  
 Federal Building and Courthouse  
 Boston, MA 02110

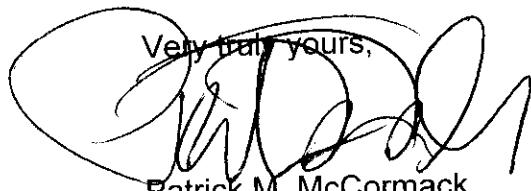
RE: PLAINTIFF: Edward McCarthy  
 DEFENDANT: McLane Company, Inc., et al  
 CIVIL NO. 04-10335-RWZ

Dear Sir/Madam:

Enclosed for filing herewith find original pleadings in the above-entitled action:

Answer of the Defendant, Construction Management Technology

Thank you for your attention to this matter.



Very truly yours,  
 Patrick M. McCormack

PMM/db  
 Enclosure  
 cc: George A. Malliaros, Esquire  
 1794 Bridge Street Suite 22B  
 Dracut, MA 01826

Wesley S. Chused, Esquire  
 Looney & Grossman  
 101 Arch Street  
 Boston, MA 02110

John Chaney  
 Claim No. 29834975-F2